

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BENEFICIAL INNOVATIONS, INC.,

Plaintiff,

v.

ADVANCE PUBLICATIONS, INC., et al.

Defendants.

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Case No. 2:11-CV-229-JRG-RSP

ORDER

Before the Court is Beneficial Innovations' Objections to Claim Construction Rulings Made by Magistrate Judge Payne & Request for Oral Argument (Dkt. No. 613, filed July, 22 2014)

APPLICABLE LAW

This Court reviews timely motions for reconsideration of the nondispositive rulings of the magistrate judge to determine whether they are clearly erroneous or contrary to law. *See* F.R.C.P. § 72(a); Local Rule CV-72(b).

DISCUSSION

Beneficial objects to Judge Payne's Order (Dkt. No. 591, filed July 11, 2014) granting in part and denying in part Beneficial's Opposed Motion to Resolve Outstanding Claim Construction Dispute (Dkt. No. 565, filed June 19, 2014.) While Beneficial does not state the basis for its objection, the Court assumes that Beneficial is objecting under F.R.C.P. § 72(a) or Local Rule CV-72(b).

Beneficial's objection appears to repeatedly misread the Magistrate Judge's ruling by selecting specific portions of the Magistrate Judge's analysis and holding them out as the

Magistrate Judge's entire analysis. For example, Beneficial points to the Magistrate Judge's statement that "[t]he Court further considered the '702 Patent's specification and file history and found no persuasive evidence that the plural context of SPNAN was more appropriate," suggesting that the Magistrate Judge's analysis "has it backwards." In context, which Beneficial is silent upon, the Magistrate Judge was performing further analysis on an earlier finding, verifying that it was not contrary to other portions of the intrinsic record.

Having reviewed the Magistrate Judge's ruling, the underlying briefing, the patent-in-suit, and the associated claim construction rulings, the Court does not find that the Magistrate Judge's ruling is clearly erroneous or contrary to law.


While it does not affect this Court's analysis, to the extent Beneficial appears to object to portions of the Magistrate Judge's Claim Construction Memorandum Opinion and Order (Dkt. No. 482, filed January 6, 2014), these objections are untimely.

CONCLUSION

For the foregoing reasons, Beneficial has not demonstrated that Magistrate Judge Payne's ruling was clearly erroneous or contrary to law. Beneficial's "Objections to Claim Construction Rulings Made by Magistrate Judge Payne & Request for Oral Argument" (Dkt. No. 613) is hereby **DENIED**.

So Ordered and Signed on this

Jul 29, 2014



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE